Regulation III of 1087. Section 6 of the Regulation lays down the procedure to be adopted before the summary jurisdiction is availed of. It was laid down in 28 T. L. R., 55 that "the preliminary steps are matters of substance and not of mere form and their observance is a condition precedent to give the Revenue officers jurisdiction to sell the land". It was therefore held that the sale was without jurisdiction. The proposed amendment puts the omission to observe the formalities in the same position as the absence of arrears. It is not intended by the amendment to make such omissions mere irregularities but only to curtail the period of limitation. The other Clauses have been sufficiently explained in the Statement of Objects and Reasons and do not therefore call for any particular remark. I therefore beg to move that the principle of the Bill be affirmed."

Seconded by Mr. Mahadeva Aiyar.

Mr. Govinda Menon:—

"Sir,

While supporting in the main the provisions of the Bill, I should be wanting in my duty if I did not lay my emphatic protest against the policy implied in some of the provisions in it. Section 33, as amended, demands payment of the arrears and costs incidental to attachment of immovable property before sunset on the day previous to that appointed for sale of property. This is in contravention of the ordinary law which enables the debtor to pay the amount of his debt before the bidding at the sale is complete. Again, the new Section 33 A (3) does not allow a person to deposit the amount due under protest. This restriction on the liberty of a party is justifiable on no reasonable grounds. Lastly, the substituted Section 59 contains a comprehensive provision entitling Government to recover all dues of whatever kind by the summary process utilised for the collection of revenue. It is true that such a right will exist only in cases where the party has agreed to its use in writing. Those who have dealings with Government officials could easily realise the difficulties and dangers of such a procedure on the part of Government, and its adoption in the Bill is sure to result in serious loss and inconvenience to the parties concerned. This is all that I have to say at present on this Bill, and I would request the Council to consider the above suggestions carefully in giving the Bill a final shape".

Mr. Subba Aiyar, in reply, spoke as follows:—

"Sir,

With regard to the last observation made by my friend Mr. Govinda Menon in respect of Clause 9, I may say that it does not seem to be so unreasonable as my friend would have it. In the existing Regulation, all arrears or advances which are according to a written engagement recoverable as arrears of land revenue may be recovered as arrears. The same principle has been adopted with necessary modifications in the wording so as to suit the existing conditions. With reference to his other observations I may say that they are matters of procedure and will be considered at the Select Committee Stage of the Bill."

Mr. Subba Aiyar's motion was carried.

Mr. Subba Aiyar then moved that the Bill be referred to a Select Committee consisting of Messrs. Mahadeva Aiyar, Velu Pillai and the Mover, to report within three months.

Seconded by Mr. Vieyra.

Carried.

THE NAIR REGULATION AMENDMENT BILL.

Mr. Velu Pillai introduced a Bill to amend the Nair Regulation, I of 1088, so as to provide for Thavazhi partition in Nair Tarawads and, in doing so, he spoke as follows:—

"Sir,

I beg to introduce a Bill to amend the Nair Regulation, I of 1088, making provision for Thavazhi partition in Nair Tarawads. I have set forth my reasons for introducing the measure when I sought the permission of this Council to do so. No elaborate argument is therefore deemed necessary. I venture however to say that the old type of Nair Tarawad has become quite an unworkable institution as the conditions that fostered it are no longer in existence. Corporate property has made way for individual owner-ship and enjoyment in all parts of the world, and if that be due to the march of civilisation and the consequent change in the customs and manners of the people, the inhabitants of the Malabar coast, and especially the Nairs, have outlived the political and social conditions which made a joint family of large dimensions possible or profitable. In the ancient Nair Tarawad, the Karanavan was a despotic ruler. The Anandravers had few recognised rights and were kept under a stern and merciless discipline under the benevolent despotism of the Karanaven. The ties of marriage and sonship were little developed, and a person's fortunes were inexorably intermingled with that of his Tarawad.

In a word, the old Nair had no existence separate from his Tarawad. But the circumstances are entirely different at present. A sense of political security has ushered in an era of individualistic existence. Family life in its true sense began to develop itself, and the notions of wife and children, "their rights" and "his duties," began to dawn upon the Nair's mind. The Karanavan began to realise his responsibility as a father and the Anandravan became accustomed to think of the privileges and duties of a son. A conflict arose between the interest of the Karanavan as a man and his duty as the ruler and the manager of a Tarawad. The History of

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this conflict is so well known that I need not describe it in any detail. Tarawads became divided up into belligerent factions, the nearer relations arranging themselves against the remote ones, and angry words, hard blows, ruinous litigation and occasional murders disfigured the annals of Marumakkathayam Tarawads.

That the general condition of a Nair Tarawad is not different from what is depicted above will be accepted by those Members of the Council who entered their emphatic protests against partition when the question was before this Council a few years back. It was conceded that the evils should be removed, but they objected to division because it would lead to the dismemberment of Tarawads. I am prepared to accept the principle that, if the existing defects can be removed and the moral and material welfare of the community be assured in another manner, the idea of dividing up Tarawads may be given up for ever. But let us look at the facts as they are and not pause to indulge in the delectable exercise of building castles in the air. Consider how rapid is the deterioration of Nair Tarawads. The outlook is gloomy. I take one sentence from the Marumakkathayam Committee's report. It is this :—"During the 18 months ending Makarom 1083, Nairs alienated by sale, mortgage and hypothecation nearly 19 lakhs of rupees worth of property more than they purchased, and this under a system by which Tarawad property is in theory impartible and inalienable except with the consent of the Seshakars or for proper Tarawad necessity."

The Courts of Justice, in their tender solicitude for the maintenance of the perpetual union of the indissoluble Tarawad, have done the best to conserve its property. Alienations were set aside unless supported by proper considerations and Tarawad necessity, and if sufficient reasons were shown they deposed the Karanavan from his *sthanom*. But when they did this in one direction they unconsciously encouraged separation in another. They held that separate residence, separate enjoyment of properties, separate payment of taxes and separate execution of documents by the different branches of a Tarawad would establish the status of division, and the period during which such separation was required to establish division was gradually reduced. The recognition of individual property, the growth of sub-Tarawads, the allotment of maintenance to members—all these were in conformity with the forces of disintegration. Eminent Judges of great experience and learning, both European and Indian, have suggested the remedy of partition to cure the evils of the Marumakkathayam law. The people prayed for a law of partition in several Sessions of the Sree Mulam Popular Assembly. The Press supported them. The Commission appointed by Government pronounced their unanimous opinion in favour of a law of partition after carefully collecting and analysing a large volume of reliable evidence. I am glad that the accuracy of the figures given by the Committee has not been challenged by the opponents of partition. I am sure no one could assail it with any justice. I hope the Council will bear with me when I quote the figures from the Committee's report which I placed before it when I sought permission to introduce this Bill. "Out of 625 witnesses examined by us on the point, who represent the landed interests in the country, 463 or more than 74% are for absolute partition, and 94 or less than 16% are for maintenance arrangements which amount to virtual partition. Among the educated men not included in the above mentioned class, represented by Graduates, Government servants who are not Graduates, non-graduate Vakils, literary men, &c., 347 out of 449 or 77% are for partition. Of a minority of 22 Graduates who are opposed to partition, 13 are for maintenance arrangements which are virtual partitions and only 9 are for maintenance arrangements of other kinds. Thus, the great majority of educated men and almost all the ryot witnesses, *i. e.*, 88% of the whole, are in favour of virtual or actual partition."

The cry is not peculiar to Travancore. We see that a provision for division of Tarawad property finds a place in the draft Regulation of Cochin. I need hardly remind you, Sir, of your enthusiastic endeavour to obtain a law of partition for Malabar Nairs when you were an Honourable Member of the Madras Legislative Council. Nor do I deem it necessary to detail to this Council how Mr. K. P. Raman Menon worked to secure a law of partition. This much may therefore be taken as granted. A law of partition is desired by the people, and that is approved by their prominent men, lay men as well as lawyers. It is in consonance with the established law of other communities. There is nothing in it against morality or public policy, and I am happy to say that Government are not against the proposal, for it has been formulated by the Committee appointed by them and accepted after great deliberation. I do not for a moment ignore the chances of opposition that may be raised by some members of the community. The various objections urged against partition have been carefully analysed and answered by the Marumakkathayam Committee in their suggestive and luminous report. The objections against division are generally put forward by men who fall into certain well-defined classes:—

I. Those that have accumulated extensive properties through their own efforts.

II. Those that belong to families of new origin and have no personal knowledge of the difficulties in Malabar Tarawads.

III. The distant Karanavans who hold together for their benefit the properties that should legitimately be enjoyed by others.

IV. Those who won't care to learn the actual difficulties of undivided Tarawads.

V. Those who prefer the diseased condition of Tarawads to the chances of extinction which they apprehend will be the lot of divided families.

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It is gratifying to note that the number of persons composed of these five classes put together is still very small.

I grant that the opinions of minorities have to be respected. But in this particular case we have facts to prove that their opinions are not correct. I may be permitted to quote another sentence from the Committee's report. "The almost unanimous testimony of the witnesses as to the absence of identity of interests between Seshakars and such distant Karanavans make it pretty clear that out of the 61% alienations which have been successfully impeached during the last 10 years the great majority must have been alienations by such distant Karanavans. On the other hand, the evidence of the witnesses establishes the fact that out of 246 branch Tarawads (whose history they know) constituted by absolute divisions in 84 Tarawads within the last ten years, 177 or 72% have improved their material condition, 33 or 14% remain in *status quo* and 36 or only 14% have declined". I am sure the Council will grasp the true significance of these figures.

Some people are apt to suppose that once a law of partition is passed all Nair Tarawads will be suddenly dismembered. This proceeds from an erroneous way of thinking. There are several families of long standing governed by the Hindu law which allows division, but at the same time it is matter of common knowledge that their members continue to enjoy property in common. Similar considerations of prestige and mutual advantage might work towards the maintenance of joint families among Nairs as well. A law of partition would thus only serve to put a stop to misgovernment of Tarawads by giving a claim to branches to separate under adverse circumstances. I find that in Mr. Raman Menon's draft Bill as well as in the Cochin draft Bill a provision is made by which, if two-thirds of the adult members of a Tarawad agree that the property should not be divided up, that Tarawad may be registered as impartible. No doubt this is inserted to disarm opposition; but the feeling in Travancore being so much in favour of partition, I have chosen to omit it. If however public opinion is strong on its insertion suitable modification may be made in the Bill during its later stages.

I now come to the different Sections of the Bill. The Nair Regulation consists of 7 Parts, divided into 26 Sections. It is proposed to insert the provisions of this Bill as Part VI and re-number the following Parts so that the numbering of the Sections need not be disturbed. Regarding the substance of the various Sections, the following ideas have to be clearly borne in mind. Partition cannot be claimed by any Thavazhee when the common female ancestor or any of her male children is alive. When A has 2 daughters, B and C, and one son D, and the daughters have both become mothers, B's children cannot claim partition among themselves until a division has taken place between B and C. This cannot take place during the life time of A or her son without their consent. When A dies, the property will still be indivisible and will become divisible only after D's death. Suppose now that B has 2 daughters and 2 sons. These four children cannot enforce division amongst themselves because they form one Thavazhee and their mother is alive. After the mother's death also the Tarawad cannot be divided, for division is allowed only after the death of both the brothers or when those brothers agree to the division. It is thus clear that the number of cases in which partition can be claimed is very small when the condition detailed above has been complied with. Partition is allowed between collateral Thavazhees. It has to be borne in mind that division is possible among collaterals only and not between ascendants and descendants. The Thavazhee which seeks division must be represented by all the adult members thereof both male and female. The last Section does not find a place in the draft prepared by the Committee but it is found necessary because it is more equitable to enable the members of a Tarawad with no offspring and with no reasonable expectation of having children to obtain their share than to leave the entire property to the last surviving member. It is interesting to note that the draft Bills of Cochin and Malabar have accepted the principle.

There is only one other topic on which I wish to say a few words. That is about the calculation of the shares due to a Thavazhee when a partition is effected. I have accepted the conclusions of the Marumakkathayam Committee on that point also, but I do recognise that there is a feeling among some persons that the rule would work hardship in certain cases. It has been proposed that in calculating shares the whole property should be divided into two, one of which is to be divided according to the *per capita* and the other according to *per stirpes* principle. This being a question of detail can be considered in the further stages of the Bill.

The Council will see that the most important question to be considered is whether the Tarawad should be declared partible. If the principle be accepted, the details can be arranged without difficulty. I do not propose to make a resume of the reasons for introducing this Bill. I would however once more impress on the Council that there is very little difference of opinion on the point. Courts of Justice have systematically proposed partition as the only remedy for the troubles of overgrown Tarawads. We find division of Tarawads taking place in large numbers by unanimous consent of the members. Communal organisations like the Nair Samajom have several times, accepted the principle and asked for a law. You will perhaps remember, Sir, with what amount of enthusiasm the resolution on partition was carried at the meeting of the Keraleeya Nair Samajom over which you presided some years ago. There may be a few individuals here and there who are against the proposed law, but they are so few that their opposition can be safely ignored. We cannot expect an absolute unanimity of opinion on a matter of social legislation. This Council and His Highness' Government passed the Christian Succession Bill into law in the face of a strong opposition, because the changes proposed

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were approved by reason and accepted by a vast majority. I am sure that the majority will be stronger in the case of a law of partition for the Nairs. It is to be noted that Government were in favour of partition when the Nair Bill was introduced into this Council and that the Sections relating to it had to be dropped in deference to the wishes of the Non-official Members. I trust that this Bill will commend itself to my Non-official colleagues as well as to Government. The Government have given me permission to introduce it after mature consideration. That is an earnest of the further encouragement on their part. Dewan Bahadur P. Rajagopala Achariar, whose prudent statesmanship and wide sympathies are appreciated throughout the Empire, gave the Nairs a very good share of reform and he has thereby earned the warmest gratitude of the community He gave them a law of marriage, devolution and disposition of property. He was not able to emancipate property from the shackles of joint ownership on account of the unfortunate unanimity of Non-official opposition in this Council. You, Sir, are in more advantageous position than your predecessor, for I trust the present Non-official Members will support this Bill. It is well known that your sympathies are with us in the matter. And we know it from the accounts of what you tried to do in the Madras Legislative Council and from what you did when you were Chief Justice as an Official Member of this Council The grant of permission for the introduction of this Bill shows that Government have realised that the time so prophetically predicted by Mr. Rajagopala Achariar has come. His weighty words still resound in this hall and from one end of the country to the other. The veteran statesman said, "I may assure you that the time will come ere long when the unanimous voice of the Nair community will demand the provision for partition and this very Council will have to take up again this question of partition." The Bill has been before the public for some time and no one has hitherto opposed it. I therefore request Government to accept the measure. With these words, I beg to move that the principle of the Bill be affirmed."

Mr. Govinda Menon :—

"Among the various questions that have presented themselves for solution at the hands of those engaged in the social, moral, and material advancement of the Nair community, there is none which approaches, in importance and complexity, the question of the reform of the law that has, for ages past, regulated the system of inheritance obtaining in that community. That the Marumakkathayam system, once admirably suited to the needs and conditions of the Nairs, has outlived its time and is in need of change is admitted by all who have ever bestowed any serious thought on its working in our midst, but whenever a definite change in the system was proposed for adoption by the Legislature, it has met with such an opposition as to force the hands of Government to a policy of inaction in the matter. A mass of unreasoning prejudice has hitherto successfully resisted all attempts to bring the law into conformity with the ideals, needs and conditions of the community at the present day and has thus in no small way contributed to its stagnation in the various and important spheres of human activity. Looked at from whatever point of view, no intelligent and impartial critic of the Nair society will ever deny that the one and sole obstacle to its progress is its system of antiquated and unnatural law of inheritance, and it is a matter for congratulation that this view has of late been rapidly gaining acceptance at the hands of the educated and thoughtful section of the community. That there is still a minority, who refuse to listen to the voice of reason and enlightened self-interest, not to speak of that larger interest which concerns the well-being of the community as a whole, is a fact I should admit with regret, but this consideration should not and, I trust, would not, stand in the way of this Council in bestowing their deep and anxious consideration on any proposal brought before them for the advancement of a community who form no negligible proportion of His Highness' loyal and faithful subjects.

I submit that the condition of the Nair Tarawads at present is anything but satisfactory. There is scarcely half a dozen Nair families worth the name in this State in which complete harmony of relationship between the individual members of the family exists. In the very cases in which such a harmony exists, special causes have been found at work. I may assure you that this is not in the least a picture drawn from imagination and that it does not represent anything but the bare truth. While touring in the different parts of this State as a Member of the Jenmi-Kudiyan Committee, I had ample opportunities to inquire into the condition of the principal Nair families in almost all the taluks of the State, and would you, Sir, believe me when I say that, as a result of my enquiries, I found that, except in four or five instances, the management and the relationship existing between the members were anything but satisfactory, and that consequently the weal and prestige of the family were steadily on the decline. In fact, the number of Nair families of standing and wealth have been steadily declining for the past forty or fifty years at such a pace that more than half the number of such families have been reduced, some to actual beggary and others to positions bordering on poverty, and in the place of these ruined ones, no appreciable number has risen to prominence in any part of the State.

What is all these due to? I say that it is all due wholly and solely to the antiquated system of our inheritance. The death knell of the Marumakkathayam system was sounded on the day when the ideas of self-acquisition and of separate living took roots in the Marumakkathayam household and when the Nairs along with their neighbouring communities began to feel the irresistible onslaught of western civilisation with its fresh ideas and ideals, ever broadening their outlook on man and society in this everchanging world of ours. The natural

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result of the combined effect of all these influences was the disintegration of the Marumakkathayam Tarawads, and the evil effects consequent on this disintegration have steadily grown up in volume and strength unchecked and unremedied by any timely and effective legislation. It may be news to many, and yet it is a fact that more than forty years ago the then Government contemplated legislation allowing the right of partition in case of Nair Tarawads, but for reasons not known at present the idea was subsequently given up. What the Legislature refused to do was however done by Nature, and as a result there are few Nair Tarawads which have not been, for one reason or other, compelled to partition their property during the last fifty years. These partitions were effected after violent internecine quarrels and great loss to the family property and in a good percentage of cases the virtual partition was a partition not of the assets of the family but of its debts. This is the real reason why partitions have not contributed to the general prosperity of those who took part in them. Those who plead against the right of partition in general are influenced solely by the evils they see in partitions effected as a result of the total estrangement in the relations between the members of a family often ending in litigation and loss; they do not look to the root cause of the evil and realise that partition amicably effected generally leads to the well-being of the parties concerned in the transaction.

Partition thus being an absolute necessity as regards the Marumakkathayam Tarawads of Nairs, the next question to be settled is the nature of the partition to be allowed by Legislature. There are those who advocate what is generally termed Thavazhi partition and those who go in for out and out individual partition. I am one of the latter class and am of opinion that Thavazhi partition of the kind indicated in the Bill now before us would not in any very appreciable degree remove the existing evils of our system of inheritance. Thavazhi partition may *minimise* the effects of some of those evils, but to eradicate them, to give fresh life and vigour to the social organism of the Nair community, each and every individual in the family should have the absolute right over his share of the Tarawad property. The adoption of such a course may seem to some of us a 'catastrophic change', but to most who have pondered over the subject unbiased by prejudice and influenced by sentiments of self-interest, it is the only course which would set free the Nair community from the shackles of a law which has always proved an obstacle to its moral and material progress. In the hope, however, that I may be able to give effect to my views in the Committee stage, I give my hearty support to the principle of the Bill."

Mr. Parameswaran Pillai :—

"I have great pleasure in supporting the principle of partition in Marumakkathayam Tarawads. In doing so, I do not wish to try the patience of this Council by making a long speech upon the subject. In fact, the learned Mover and the Seconder have in their speeches threshed out the salient points of this important subject. Secondly, this subject of partition in Marumakkathayam Tarawads has been before the public for over 30 years, and during all this time, a large mass of literature has accumulated upon the subject. And everybody who is anybody in this country has, I fancy, bestowed his best thought upon this subject. So far, every one who has got anything to do with it, would certainly have long ago made up his mind one way or the other. I do not think that any repetition of the arguments advanced in support of this measure is going to influence their decision one way or other. You know, Sir, and the Members of this Council know, as I have already submitted, that this matter has been the subject of agitation for over 30 years. Ever since the Popular Assembly was started, I believe I can say that I was connected with it ever since its second sitting, this subject was being brought up year after year and pressed upon the attention of the Government. In fact, I know that this Nair Regulation itself is not directly the outcome of agitation for a Regulation for the legalisation of marriage, but it arose out of agitation for a law of partition for the Marumakkathayam Tarawads. If you go back and examine the records of the Popular Assembly, you will see that, as a matter of fact, the memorial presented by the Members of the Popular Assembly had special reference to the law of partition, and perhaps that was the only subject that was mentioned in their memorial. Somehow or other, as the proverb goes that in the hurry of marriage the tying of Tali was forgotten, the matter for which we agitated was lost sight of. Even at the time when the Nair Regulation was passed, the desire for partition was keen and the Bill had a clause containing provision for partition which is absolutely essential for the welfare of the community. I say therefore that all that could be said upon the subject has been well said not only in the speeches made to-day before the Council but also in the large literature that has been written upon the subject. It is unnecessary to say anything more. Of course so far in regard to the principle of partition. With regard to the shape it should take, there seems to be differences of opinion, but after all, it should be only with regard to details. I know that the opinion in the country is that a law, Thavazhi partition as it is called, will not be sufficient to meet the needs of the situation. Probably, this is an advanced or extreme view. Irrespective of all that, I have great pleasure in supporting the principle embodied in the present Bill of partition in Marumakkathayam Tarawads."

Mr. Subrahmanya Pillai :—

"Sir,

I am glad that the question of partition among Nair Tarawads has come again for discussion before this Council. The arguments for and against such a step have already been before the public for a sufficiently long time, and they have impressed me that the step

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anticipated in this amendment is in the right direction. I was quite astonished at the fate that the partition Clause met with when it was before this Council at a former time, and even then, I was quite confident that the Nair community will not rest contented. Since that incident, the opinion in favour of partition has been gaining force and I expect now a better backing up for Mr. Velu Pillai's Bill. The circumstances obtaining among Nair Tarawads are now quite different from those in former days, and I candidly express my opinion that unless provision is made for partition for them there is going to be no prosperity which their neighbours now enjoy. A want of feeling of responsibility among the Seshakars and a desire among Karanavans to enrich an alien Tarawad at the expense of their own are the chief features that now precipitate the deterioration of Tarawads among Nairs. Again, the present Tarawad system is the one and the only cause that has completely destroyed the spirit of enterprise among the Marumakkathayees. I mean no offence, Sir, when I say that very few enterprises among the Marumakkathayees have gone beyond the successful establishment of tea-shops. Even those few, if we examine more carefully, will be found to have been favoured by exceptional circumstances. Complete partition, *i. e.*, individual partition, is the only course that will completely eradicate these evils. That is the final goal, and I am sure that, whatever be the opposition, that goal is in sight and that the public is moving with irresistible force towards that goal.

The present amendment is the first and right step towards that goal, as in social legislation, we can go only quite cautiously and step by step. Hence I have much pleasure in supporting the motion regarding the principle of the Bill. But, as to the mode of division recommended in the Bill, there is likely to be differences of opinion, and I am one of those who differ from the Mover. The Mover fixes the portion of each Thavazhi to be so much of the common property as would fall to the share of the members of that Thavazhi if a division *per capita* were made among all the living members of all the Thavazhees. Now, Sir, this mode of division is likely to work hardship upon females. The sisters, *i. e.*, the originators of the different Thavazhees, can never be of the same age. The youngest sister may still be young and may have only just entered the child bearing period. She will not have had sufficient time to expend as her more fortunate sisters, and in that case, her position will be pitiable. It is also certain that the other sisters will seek the earliest opportunity to divide when they see their advantageous position. In order to avoid such inequality in division, I would recommend the mode of partition adopted by the Select Committee that formerly sat over the Nair Bill, by which one-half is to be divided as suggested by the Mover in the present Bill, and the other half to be divided equally among the different Thavazhees. Clause 18 D should commend itself to every one as it is harmless and at the same time the most salutary provision in the Bill. It also brings us nearer to the goal I have already indicated."

Mr. Subba Aiyar:—

"Sir,

I have been closely following the speeches of the learned Mover of the Bill and of the learned Non-officials who supported him, and I regret I am not in a position to say that they have established a necessity for the amendment of the Nair Regulation. I do not propose to go into the vexed question as to whether partition in the abstract is desirable or undesirable and whether or not it will tend to the moral and material advancement of the community. It will be readily conceded that the Government will not at all be against any piece of social legislation if only they are satisfied as to the necessity for the same. The Nair Regulation and the Christian Succession Regulation will bear me out. It is admitted by the Mover that the Bill is virtually the same as the one that was introduced into this Council some time ago. It is therefore necessary to go into the circumstances under which the Part relating to partition in the originial Bill was deleted from it. The Nair Bill was introduced into the Council on the 6th April 1911. All the Non-official Members as a body objected to the retention of the provision as to partition in the Bill. Mr. Sri Narayanan Tampi, one of the Non-official Members, observed as follows :—

"The social and legal phases of the seemingly tentative break-up proposed in the shape of Thavazhee partition present knotty questions of the vested rights, fiduciary relations and obligations which may advantageously form subjects of enquiry as solemnly and deliberately as the question of divorce is being dealt with in England by eminent experts. The Honourable Mr. Justice Sankaran Nair who presided lately at a conference of the Keraleeya Nair Samajom was of the opinion that Tarawad property really belongs to females. In this view of the case, I entertain very grave doubts as to whether our handling of the subject at this stage would not amount to an arbitrary invasion of women's rights. Shall we be justified in setting aside a doctrine of law which in effect has been honoured and revered by the community for centuries past? Authoritative and weighty pronouncements, history and tradition, custom and personal experience, point to the woman being the paramount factor in the Marumakkathayam system. Until she can be taken under the *aegis* of a convincingly protecting new system, the Legislature must stay its hand against aggression on her subsisting rights."

When the Select Committee considered the Bill, all the Non-official Members who were on the Committee were against the Chapter on partition. When, at its second reading, the Bill was considered by the Council on the 5th February 1912, Mr. P. Kesava Pillai, in opposing the provisions as to partition, said that "in the first place there is a strong volume of public opinion *against* allowing partition. As far as I have correctly understood the situation, the members of the middle class families are not as a rule in favour of the change." Mr. Madhavan Tampi

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observed that "partition of any kind of Tarawad properties will only be attended with injurious consequences. If we take the opinion of the Members of the Assembly as representing those of the people, it will be seen from what they said at the last Assembly that public opinion was divided in regard to the question of partition. Some of the Members who were in favour of partition did not want outright partition but only separate allotment of properties for enjoyment.....It is by no means desirable that a piece of social legislation should be carried out in the absence of the general approval of the community concerned." Mr. Easwara Pillai observed as follows:—"So far as I know I may say that the volume of public opinion in North Travancore is *against* partition."

It may be stated here that the four Non-official Members referred to above are the residents in the four Divisions of the State and that most of them were elected Members. Without meaning any disparagement to the present Non-official Members, their views are, I may be permitted to say, entitled to respect. They were backed by memorials signed by a large number of people objecting to part VII about partition. It was owing to this strong opposition that the provisions regarding partition were deleted. We are now asked to reconsider the partition provisions in the Nair Bill. Have we been referred to anything that has occurred since the passing of the Nair Regulation to justify us in doing so?

Mr. Velu Pillai has quoted with approval your predecessor's remarks in closing the debate about partition. I shall also take my stand on the very same remarks and ask him whether, as observed by your predecessor, he has satisfied us that the present Bill is demanded by the unanimous voice of the Nair community. Has he referred us to anything that has transpired since the passing of the Regulation? Has he produced any evidence to show that the whole community or the major portion of them want the proposed Bill now? Beyond the opinions of the individual Non-official Members of the Council, we have not been referred to the views of associations or public bodies or of others to indicate that the community as a whole or a major portion of them desire to have a partition in the form proposed by the Bill.

Again, in his minute on the Select Committee's report, Mr. Easwara Pillai remarked that "a well defined marriage law with rights of maintenance and perhaps inheritance attached and with provisions for the disposition of the self-acquired or separate property seems to me to be sufficient to meet our present requirements and calculated to place us in a position favourable for moral and material advancement".

The Nair Regulation was passed only over four years ago. Have we waited sufficiently long to know whether the law has been working satisfactorily and whether the expectations of Mr. Easwara Pillai have been fulfilled? In these circumstances, I cannot but say that the Government will not be justified in accepting the principle of the Bill. With these few words, I beg to oppose the principle of the Bill."

Mr. Velu Pillai :—

"I wish to say a word in reply. My friend Mr. Subba Aiyar, who opposes the Bill, does so mainly on the ground that no necessity has been made out for the law. I must confess my inability to understand the force of that remark. Here is the report presented by the Marumakkathayam Committee appointed by the Government which collected and analysed very reliable evidence on the question. The report will show that the vast majority of the community are warmly in support of a law of partition. For the mere accident that the Nair community was at that time represented in this Council by three or four Members who were against partition, the Sections relating to Thavazhi partition had to be omitted from the Bill which has now become the Nair Regulation. My friend appears to have based his arguments on certain opinions plying about the country and not held by any specified individuals or bodies. If the Non-official Members opposed the law at that time, I am happy to point out that we, the Non-official Members of the present time, are enthusiastically united in its support. It was observed that Mr. A. Sri Narayanan Tampi held that females are the exclusive owners of Tarawad properties and that in a Marumakkathayam Tarawad the woman is always the stock of descent. I may point out that in my Bill I have never attempted to change the rule and make man the stock of descent. My friend's remarks are therefore wide of the mark. It is true that Mr. Sri Narayanan Tampi and other Non-official Members of this Council strenuously opposed division. I have got great regard for them all, but I do not think they are qualified to give the final word on an important matter like this. I ask you, Sir, what do the opinions of those Members avail when the Marumakkathayam Committee's report has established that the great majority of the people are in favour of the change? When this is so, I cannot understand how the individual opinions of two or three former Members could still weigh with the Government. I learn that one of those gentlemen at least has changed his opinion since, and has become an advocate of individual partition. I repeat that Mr. Subba Aiyar's view, that the united voice of the Nair community has not asserted itself in favour of the Bill, is quite untenable. I suppose that Mr. Subba Aiyar does not expect all Nairs to muster together and whisper their opinions into his ears. My friend, as an officer of Government, is estopped from discrediting the report of the Marumakkathayam Committee published under the authority of Government. Now that the Bill has been introduced, let us wait and see how it is taken by the people. Sir, when I applied for permission to introduce this Bill, you were good enough to say that the Council was at liberty to grant the required permission if they were of that opinion, but that the Government reserved to themselves the full right to deal with the Bill later on as they thought

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fit. When I see the doughty champions of the Sirkar Vakil's views— the Official Members— pledged to vote with him on all questions, arrayed against me on the other side, and when I reflect that the opinion of Government will settle the issue in this Council, I am induced to make a request to you, Sir, to deal with this Bill in the same manner in which the Government dealt with the Christian Succession Bill. Government were good enough to allow latitude of action to the Official Members in the case of the Christian Bill. I wish that the same be done in this case also. I am sure there is not so much diversity of opinion regarding this Bill as there was about the Christian Bill. It is then all the more reason why Government should permit Official Members to vote as they like as this is also a piece of social legislation over which Government have no particular interest. The Additional Head Sirkar Vakil has now for a long time monopolised all legislative activity in this Council. I now find that he has usurped the function of opposing all non-official Bills irrespective of valid reasons. Sir, as long as the constitution of this Council remains what it is, non-official Bills have no chance of being passed into law except when the Government are good enough to pass them. It is now over 25 years since this Council was inaugurated but unfortunately there has hitherto been no instance of Non-official Members having been able to sway the decision of this Body, and if, on a subject of this nature, the united force of non-official opinion be so lightly disregarded, I do not know why we should be here at all. I therefore appeal to you, Sir, not to interpose the decision of Government before the Official Members are given freedom to give their own opinion on this important question. In this connection, I beg to express my thanks to my Non-official colleagues who have supported me."

President:—

"Before I take the sense of the Council on this measure, I may say one or two words. Mr. Subba Aiyar has given, in my opinion, very good reasons for rejecting this measure. As he said, hardly five years have elapsed since the time when the Nair Regulation became law. At that time, in deference to the unanimous opposition of the Non-official Members of the Council, the Government rejected the provisions relating to partition. The question is, as Mr. Subba Aiyar said, whether there has been unanimous opinion, or even a large volume of public opinion, in favour of partition, since the time when the Nair Regulation was passed. Mr. Subba Aiyar has shown that there has not been a large volume of opinion in favour of it. We have not had enough of time to watch the operation of the existing Regulation. In these circumstances, I do not think that the Government would be justified in accepting this measure. I shall now take the sense of the Council on the Bill by putting the motion to the vote."

Mr. Velu Pillai's motion was lost.

THE CATTLE TRESPASS REGULATION AMENDMENT BILL.

Mr. Subba Aiyar presented the report of the Select Committee on the Cattle Trespass Regulation Amendment Bill, and said as follows:—

"Sir, I beg to present the report of the Select Committee on the Cattle Trespass Regulation Amendment Bill. It is not three weeks since the report of the Select Committee and the Bill as modified by them were published in the Gazette. Nor has the Malayalam translation of the Bill as amended appeared in the Gazette in time. The Select Committee made only a very slight modification by adding a few words to Section 11. I therefore beg to move that Rule 46 be suspended and that the Bill be taken up for consideration".

Seconded by Mr. Mahadeva Aiyar.

Carried.

The consideration of the Bill being over, Mr. Subba Aiyer moved that the Bill be read again on a future day of which notice should be given.

Seconded by Mr. Mahadeva Aiyar.

Carried.

THE PRESS REGULATION AMENDMENT BILL.

Mr. Subba Aiyar moved that the Press Regulation Amendment Bill be finally read and passed.

Seconded by Mr. Subrahmanya Aiyar.

Mr. Rarameswaran Pillai:—

"I oppose the passing of this Bill."

Mr. Subba Aiyar.

"I do not think that there is any provision in the Regulation or the Rules which permits a motion of this kind being made at this stage of the Bill."

Messrs. Velu Pillai, Govinda Menon and Subrahmanya Pillai said that they were not for finally passing the Bill.

Mr. Subba Aiyar's motion was put to the vote and was carried by a majority.

The Council adjourned at 1-45 P. M.

M. KRISHNAN NAIR,
President.

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